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COUNCILMEMBER DONNA FRYE 04 MAY 28 AM 9:47
City of San Diego
Sixth District
SAN DIEGO, CALIF.

MEMORANDUM

DATE: May 28, 2004
TO: Charles G. Abdelnour, City Clerk
Bill Baber, Rules Committee Consultant
FROM: Councilmember Donna Frye *Donna*
SUBJECT: Submission of Ballot Proposal for Rules Committee Meeting of June 16, 2004, Related to Increasing the Transient Occupancy Tax (TOT) by 2.5¢ from 10.5¢ to 13¢

This memorandum is for the purpose of submitting the attached ballot proposal for consideration at the Rules Committee meeting of June 16, 2004.

This ballot proposal would increase the Transient Occupancy Tax (TOT) by 2.5¢ from 10.5¢ to 13¢.

cc: Mayor Dick Murphy
City Council

DF/ks

**DRAFT - 2.5 cents earmarked for Police and Fire needs for
a 3 year period**

(O-2004-___)

ORDINANCE NUMBER ___ (NEW SERIES)

ADOPTED ON ___, 2004

AN ORDINANCE SUBMITTING TO THE QUALIFIED
VOTERS OF THE CITY OF SAN DIEGO AT THE MUNICIPAL
ELECTION CONSOLIDATED WITH THE CALIFORNIA
STATE GENERAL ELECTION TO BE HELD ON NOVEMBER
2, 2004, ONE PROPOSITION, RELATING TO INCREASING
THE CITY'S TRANSIENT OCCUPANCY TAX FROM 10.5%
TO 13%.

WHEREAS, pursuant to Section 9222 of the California Elections Code, and
Section 27.1001 of the San Diego Municipal Code, the City Council has authority to place
propositions on the ballot to be considered at a Municipal Election; and

WHEREAS, by Ordinance No. O-_____, adopted on _____, the Council of the City
of San Diego is calling a Municipal Election to be consolidated with the California State General
Election on November 2, 2004, for the purpose of submitting to the qualified voters of the City
one or more ballot propositions; and

WHEREAS, the City of San Diego currently imposes a 10.5 percent transient occupancy
tax upon the guests of hotels and other transient accommodations located throughout the City;
and

WHEREAS, the City Council desires to raise the transient occupancy tax to a total of 13
percent, and require that the increased portion of the transient occupancy tax revenues be
temporarily used for Fire-Rescue Department facilities and equipment and Police Department
facilities and equipment until June 30, 2008; and

WHEREAS, the City Council desires to submit to the voters at that Municipal Election one ballot proposition, entitled "Public Health and Safety Ordinance"; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. One ballot proposition amending the San Diego Municipal Code is hereby submitted to the qualified voters of the City at the Municipal Election to be held November 2, 2004, the proposition to read as follows:

PROPOSITION

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by repealing sections 35.0103, 35.0104, 35.0105, 35.0106, 35.0107, and 35.0108, which collectively have imposed a 10.5 percent transient occupancy tax for the privilege of occupancy in hotels, recreational vehicle parks, and campgrounds.

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by adding new section 35.0103, to read as follows:

§ 35.0103 Tax Imposed

For the privilege of Occupancy in any Hotel, any Recreational Vehicle Park, or any Campground, each Transient is subject to and shall pay a tax in the amount of 13 percent (13%) of the Rent charged by the Operator.

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by repealing sections 35.0128, 35.0129, 35.0130, 35.0131, 35.0132, and 35.0133, which collectively have established the process for utilizing revenues collected from transient occupancy taxes.

That Chapter 3, Article 5, Division 1, of the San Diego Municipal Code is amended by adding new sections 35.0130, 35.0135, 35.0136, 35.0137 and 35.0138 to read as follows:

§ 35.0130 Utilization of Revenues from Tax Imposed by Section 35.0103

All revenues collected pursuant to the tax imposed by the City under section 35.0103 shall be deposited in the General Fund of the City and be used for general governmental purposes as the City Council may from time to time provide in accordance with the Charter of the City of San Diego and the City Council's Annual Appropriation Ordinance.

§ 35.0135 Temporary Allocation of Certain Revenues from Tax Imposed by Section 35.0103

Notwithstanding the provisions of section 35.0130, two and one-half cents (\$0.025) of every thirteen cents of the transient occupancy tax projected for collection pursuant to section 35.0103 shall be utilized and expended as follows:

- (a) One and one-quarter cents (\$0.0125) of every 13 cents projected for collection shall be included in the budget beginning in the FY 05-06 Budget for deposit in the TOT Fire-Rescue Fund to be appropriated by the City Council for Fire-Rescue facilities and equipment described in section 35.0136.
- (b) One and one-quarter cents (\$0.0125) of every 13 cents projected for collection shall be included in the budget beginning in the FY 05-06 Budget for deposit in the TOT Police Fund to be appropriated by the City Council for the Police facilities and equipment described in section 35.0137.

§ 35.0136 TOT Fire-Rescue Fund

There is hereby created the TOT Fire-Rescue Fund. Appropriations are eligible to be made from the TOT Fire-Rescue Fund solely for the purpose of eliminating the backlog of deferred maintenance on equipment and facilities or for funding new Fire-Rescue equipment and facilities, as determined by the City Council pursuant to the annual budget and appropriation process.

§ 35.0137 TOT Police Fund

There is hereby created the TOT Police Fund. Appropriations are eligible to be made from the TOT Police Fund solely for the purpose of eliminating the backlog of deferred maintenance on equipment and facilities or for funding new Police equipment and facilities, as determined by the City Council pursuant to the annual budget and appropriation process.

§ 35.0138 Automatic Repeal of Sections 35.0135, 35.0136, 35.0137, and 35.0138

Municipal Code sections 35.0135, 35.0136, 35.0137 and 35.0138 shall remain in effect until June 30, 2008, after which time these sections shall be automatically repealed and removed from the Municipal Code.

That the amendments to Chapter 3, Article 5, Division 1, of the San Diego Municipal Code described in this proposition shall not take effect until February 1, 2005, and that in the event any of the amendments to Chapter 3, Article 5, Division 1, of the San Diego Municipal Code described in this proposition are found to be invalid by a court of law, that the remainder of this proposition shall not be affected thereby.

If, at the time this ballot measure is presented to the people for their approval, there is on the same ballot any additional ballot measures relating to an increase in transient occupancy taxes, and more than one ballot measure relating to an increase in transient occupancy taxes is approved by the voters, the ballot measure receiving the most votes shall be declared the prevailing measure, and shall be given full force and effect.

END OF PROPOSITION

Section 2. The proposition shall be presented and printed upon the ballot and submitted to the voters in the manner and form set out in Section 3 of this ordinance.

Section 3. On the ballot to be used at this Municipal Election, in addition to any other matters required by law, there shall be printed substantially the following:

PROPOSITION __. PUBLIC HEALTH AND SAFETY ORDINANCE		
Shall the City increase the transient occupancy tax (TOT) paid solely by hotel and motel visitors from 10.5% to 13%; and shall the increase be earmarked to fund Fire-Rescue and Police Department deferred maintenance and new equipment and facility needs until June 30, 2008, after which the funds may be used for general governmental purposes?	YES	
	NO	

Section 4. An appropriate mark placed in the voting square after the word "Yes" shall be counted in favor of the adoption of this proposition. An appropriate mark placed in the voting square after the word "No" shall be counted against the adoption of the proposition.

Section 5. The City Clerk shall cause this ordinance or a digest of this ordinance to be published once in the official newspaper following this ordinance adoption by the City Council.

Section 6. Pursuant to Section 9295 of the California Elections Code, this measure will be available for public examination for no fewer than ten calendar days prior to being submitted

for printing in the sample ballot. During the examination period, any voter registered in the City may seek a writ of mandate or an injunction requiring any or all of the measure to be amended or deleted. The examination period will end on the day that is 75 days prior to the date set for the election. The Clerk shall post notice in his office the specific dates that the examination period will run.

Section 7. Pursuant to Section 17 of the Charter of the City of San Diego, this ordinance relating to elections shall take effect on _____, 2003, which is the day of its introduction and passage.

APPROVED: CASEY GWINN, City Attorney

By _____
Richard A. Duvernay
Deputy City Attorney

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